

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

11 KENNETH POGUES, SR., ) Case No. CV 08-3350-RGK(RC)  
12 Petitioner, )  
13 vs. ) ORDER ADOPTING REPORT AND  
14 D.K. SISTO - WARDEN, ) RECOMMENDATION OF  
15 Respondent. ) UNITED STATES MAGISTRATE JUDGE  
 ) AND ORDER DENYING  
 ) CERTIFICATE OF APPEALABILITY  
 )  
 )

17 Pursuant to 28 U.S.C. Section 636, the Court has reviewed the  
18 Petition and other papers along with the attached Report and  
19 Recommendation of United States Magistrate Judge Rosalyn M. Chapman,  
20 as well as petitioner's Objections, and has made a de novo  
21 determination.

23 IT IS ORDERED that (1) the Report and Recommendation is approved  
24 and adopted; (2) the Report and Recommendation is adopted as the  
25 findings of fact and conclusions of law herein; and (3) Judgment shall  
26 be entered denying the petition for writ of habeas corpus and  
27 dismissing the action with prejudice.

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1 This Court finds an appeal would not be taken in good faith, and  
2 that petitioner has not made a substantial showing that he has been  
3 denied a constitutional right, for the reasons set forth in the Report  
4 and Recommendation of the United States Magistrate Judge, and  
5 accordingly, a certificate of appealability should not issue under  
6 28 U.S.C. § 2253(c)(2) and Fed. R. App. P. 22(b). Slack v. McDaniel,  
7 529 U.S. 473, 483, 120 S. Ct. 1595, 1604, 146 L. Ed. 2d 542 (2000);  
8 Mayfield v. Calderon, 229 F.3d 895, 900 (9th Cir. 2000). Thus, IT IS  
9 FURTHER ORDERED that a Certificate of Appealability be DENIED.

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11 FINALLY, IT IS FURTHER ORDERED that the Clerk shall serve copies  
12 of this Order, the Magistrate Judge's Report and Recommendation and  
13 Judgment by the United States mail on petitioner.

14  
15 DATED: July 9, 2010

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17 R. GARY KLAUSNER  
18 UNITED STATES DISTRICT JUDGE

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